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CONVENTION BETWEEN THE GOVERNOR OF THE TRANSVAAL AND THE
PORTUGUESE PROVINCE OF MOZAMBIQUE.

April 1, 1909.

Convention made and entered into between William Waldegrave, Earl of Selborne, a member of his Britannic Majesty's most honorable Privy Council, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George and Governor of the Transvaal and as such acting for and in behalf of the government of the Transvaal (hereinafter called the Transvaal government) of the one part and Thomaz Antonio Garcia Rosado, lieutenant-colonel of the general staff, councillor and equerry to his most faithful majesty the King of Portugal, formerly governor-general of the province of Mozambique and in this convention acting for and on behalf of the government of that province (hereinafter called the government of the province) of the other part.

The said two governments have mutually agreed and do hereby covenant and agree with each other to replace an agreement between them known as the *modus vivendi*, signed at Lourenço Marques, on the 18th day of December, 1901, together with the addendum thereto dated the fifteenth day of June, 1904, by the provisions following, that is to say:

PART 1.

Matters concerning natives.

1. Under this convention the government of the province will permit recruiting within the territories under its direct administration of native laborers for the mining industries of the Transvaal: provided that such permission will not be effective within areas the natives of which are subject to obligations under local laws at present in force or under legal contracts now existing with the government of the province, if those obligations would be interfered with by any recruiting operations.

2. Except in so far as may be in conflict with this convention, recruiting operations shall be conducted in accordance with regulations at present in force in the province; but the government of the province may alter the said regulations, subject, however, to agreement between the two governments whenever such alteration affects recruiting operations.

3. The government of the province reserves the right to prohibit recruiting by or allotment to a Transvaal employer who, upon a joint investigation by representatives of each government, may be found to

have failed, in some substantial respect or persistently after warning, to comply with the obligations imposed by this convention or by any regulation in force in the province not inconsistent with this convention. In the event of the representatives of both governments not being able to agree, they shall appoint an umpire whose findings shall be final.

4. Every licence to recruit native laborers shall be granted by the government of the province.

Each application for a recruiting licence shall be made through the intendent of emigration at Lourenço Marques, and no application shall be granted unless it be accompanied by a certificate from the Transvaal Secretary for Native Affairs to the effect that the Transvaal government supports the application and that it is made on behalf of an employer or employers of labor connected with the mining industries of the Transvaal.

Every applicant shall at the same time produce a written undertaking on his own behalf and on behalf of his employers to fulfill all obligations under any regulations in force in the province or contemplated by this convention.

The guarantee deposit and licence which the recruiter has to pay shall not exceed those provided by the provincial regulations of the 18th November, 1897.

Recruiting licences shall be issued in respect of any one district, and for this purpose the old district boundaries existing in 1907 may be followed, but a licence issued in respect of one district shall on application be transferred to another without extra charge.

Recruiting licences may at any time be cancelled by the government of the province in accordance with the emigration regulations of the province.

If at any time after the granting of a licence the Transvaal government raises any objection against the holder of such licence, the government of the province agrees to withdraw the licence.

5. Before leaving the province every laborer shall be supplied with a passport available for one year, for which a fee of thirteen shillings shall be paid to the government of the province by the employer. No other fees shall be charged in connection with legally recruited natives, except those specified in this convention.

6. No laborer shall be engaged in the first instance for a longer period than one year, but at the end of the first period he may be re-engaged for a further period or periods, but so that such period or periods, together with the first period, shall not, without the special permission of the Portuguese Curator hereinafter referred to, exceed two years.

Any laborer who fails to return to the province of Mozambique at the expiration of his period of service, including any period of re-engagement, shall, unless he shall have obtained special permission from the curator, be considered a clandestine immigrant for all the purposes of this convention.

7. The Transvaal government guarantees that natives will be given their discharge at the expiration of the period of contract, including any period of re-engagement, and that no pressure shall be put on them to renew their contracts.

8. The Portuguese curator shall be entitled to receive a fee of one shilling and sixpence for every three months or part thereof, in respect of every Portuguese native to whom this convention applies and who has been in the Transvaal for more than one year. Such fee shall be paid to the Portuguese curator by the employer.

9. A Portuguese official will undertake the duties of curator for Portuguese natives in the Transvaal.

The curator shall be the sole official charged with the functions of a consular officer with respect to such natives, and, in addition to the powers vested in him by the regulations now in force in the province, the following powers and duties shall attach to him:

(a) To approach the Transvaal authorities with a view to arriving at an understanding in matters relating to Portuguese natives residing in the Transvaal.

(b) To collect all fees payable to the curator under this convention in respect of Portuguese natives in the Transvaal.

(c) To issue or refuse Portuguese passes to clandestine immigrants.

(d) To grant or refuse the extension of Portuguese passes to Portuguese natives.

(e) To promote by all means at his command the registration of Portuguese natives in the Transvaal.

(f) To organize a deposit and transfer agency for moneys belonging to Portuguese natives.

(g) To ascertain the allotment of laborers to the different mines for the purpose of recording their places of employment.

10. The railway charges for natives returning to the Portuguese frontier shall be equally favorable with the railway charges made for natives from the Portuguese frontier into the Transvaal.

11. The following customs provisions shall apply to goods and baggage

of native laborers returning from the mining industries of the Transvaal, but the details of these provisions may be revised from time to time by mutual arrangement:

(a) Each native laborer will, subject to the terms of subsection (b) of this article, be permitted by the Portuguese customs to carry with him into the province, free of duty and from formal examination, up to sixty kilograms (equal to one hundred and thirty-two pounds) gross weight of baggage.

(b) The Portuguese customs, however, reserve the right to examine occasionally and from time to time the baggage carried by the said natives, in order to satisfy themselves that no excessive quantities of goods for trading purposes are being imported under cover of the above privilege.

(c) In the event of any native, after examination, being found to carry goods whereon the duty leviable according to the Portuguese tariffs, is more than 2,250 reis (ten shillings), but does not exceed 2,750 reis (twelve shillings) there shall be collected from the native on such goods the difference between 1,687.5 reis (seven shillings and sixpence) and the actual duty leviable.

(d) No native referred to in this article will be permitted to have in his possession merchandize upon which the Portuguese customs duties exceed 2,750 reis (twelve shillings); the bearer of goods the duties whereon exceed that amount shall be liable to the penalties prescribed by the Portuguese customs law and regulations, other than the confiscation of such goods; but nothing in this subsection contained shall be deemed to prevent the confiscation of contraband goods, such as dynamite, powder, firearms, fuses, and the like, when introduced into the province by any such native.

(e) It is understood that, for the purpose of the computation of duties only such goods as are at the present time ordinarily liable to duty shall be assessed, that is to say, only such goods as by reason of their quantity, nature, or condition, can not be considered as personal effects of the natives.

(f) In consideration of the above, the Transvaal government will pay to the customs of the province the sum of seven shillings and sixpence per head for each and every native laborer of the province returning from the mining industries of the Transvaal.

12. Subject to the terms of this convention every native of the province in the Transvaal must be in possession of a Portuguese pass or passport issued by the authorities of the province.

Any such native found within the Transvaal without such pass or passport shall be considered a clandestine immigrant and shall obtain from the Portuguese curator or his representative a pass for which a fee of twenty shillings shall be paid.

13. No Portuguese native in possession of a Portuguese passport lawfully under this convention shall be liable to pay native tax under the laws of the Transvaal.

14. This convention shall not apply to a native who

(a) entered the Transvaal from the province of Mozambique prior to the 11th day of October, 1899; and

(b) has not, since that day, resided continuously in a labor district in the Transvaal.

15. No Transvaal pass shall be issued to a Portuguese native who fails to produce a Portuguese pass or passport lawfully issued, except in districts where the curator has no representative, in which case Transvaal pass officers may issue a pass, but shall send all details to the Portuguese curator in order that the native may be provided with a Portuguese pass, and the curator shall collect the amount due from the employer (if any) or from the native if he has no employer.

If, however, the curator refuses to issue a pass to such native his Transvaal pass shall forthwith be cancelled in accordance with the Transvaal pass regulations.

16. Except upon production of a written authority from the Portuguese curator, no pass shall be issued by an official of the Transvaal government

(a) to clandestine immigrants who, being in possession of a Portuguese pass or passport, desire to be employed otherwise than in the mining industries;

(b) to natives who desire to work for an employer and who did not enter the Transvaal after executing a contract in accordance with law in the province, or who desire to work with a new employer.

Whenever a Portuguese native is authorized to work for any person (not being the employer by whom he was originally engaged in accordance with law in the province), or whenever a native is authorized to work for a new employer, the Portuguese curator shall receive from the employer or native a registration fee of ten shillings. When the engagement of native laborers is made by an agency which is authorized to recruit on behalf of several employers such laborers shall be regarded for the purposes of this article as having been originally engaged for any of such employers.

17. No pass shall be issued in the Transvaal to enable a Portuguese native to travel to any other colony or territory except the province of Mozambique without the production of a written authority from the Portuguese curator.

18. The Transvaal government shall assist the curator

(a) by facilitating access by him or his representatives to compounds and to all other places where Portuguese natives are located;

(b) by facilitating the collection of fees payable to the curator under this convention in respect of Portuguese natives in the Transvaal;

(c) by refusing, so far as the Transvaal law allows, the issue or renewal of Transvaal passes to Portuguese natives who fail to produce a valid Portuguese passport;

(d) by causing all cases of deaths, accidents, and desertions of Portuguese natives to be reported to him;

(e) by issuing instructions to all pass officers to the effect that the number of the Portuguese passport must always be mentioned distinctly in the Transvaal pass for reference;

(f) by issuing instructions to pass officers to the effect that all Portuguese natives must report themselves at the curator's office before returning home. In districts where the curator is not represented passes of Portuguese natives desiring to return home shall be sent to him for endorsement.

(g) by promoting the return home of time-expired laborers *via* Ressano Garcia or any other place on the border which may be agreed upon by the two governments.

19. The Transvaal government shall, so far as the Transvaal law allows, assist the Portuguese curator in preventing the residence in the Transvaal of Portuguese natives without Portuguese passes or with Portuguese passes which are time-expired, and also in discouraging and preventing the entry into the Transvaal of clandestine immigrants.

20. All moneys received for administration by native affairs officials of the Transvaal government in connection with the estates of deceased Portuguese natives shall be paid over to the curator, whose acquittances shall be a sufficient discharge therefor. The curator shall also be notified of the particulars of compensation payable in respect of accidents, in order that such compensation may be paid to the beneficiaries through his office.

PART 2.

Matters concerning railways and port.

21. The two governments will mutually and in consultation with each other devise and put into operation means and methods for facilitating and developing both the import and export traffic to and from the Transvaal *viâ* Lourenço Marques.

22. The two governments, with respect to traffic of all descriptions for export oversea from the Transvaal through the port of Lourenço Marques, will mutually take such steps as may be considered expedient for facilitating and encouraging the same, and for this purpose they agree that the throughout railway rates

(a) from stations on the Central South African Railways within the competitive area,

(b) from stations between Germiston (including Pretoria) and Komati Poort,

(c) from stations on branch lines connecting either directly with the competitive area or with the through line from Germiston and from Pretoria to Lourenço Marques,

shall in no case be higher than those which are chargeable from such stations by any other export route, and that they shall be divided between the two railway administrations on a mileage basis unless the board hereinafter mentioned decides otherwise. Before such division is made there shall be deducted the terminal allowances now accruing to each administration under existing agreements or such other terminal allowances as may from time to time be mutually agreed upon. The charges of all descriptions at the said port for shipping and other services on such traffic shall in no case exceed the lowest charges on similar traffic exported through any port in South Africa having government railway communication with the interior.

23. In the event of it being found during the continuance of this convention that the gross tonnage of the seaborne goods traffic included in the normal, intermediate, and intermediate B classes combined or the gross tonnage of the seaborne goods traffic included in the remaining classes combined passing through the port of Lourenço Marques to the competitive area, as compared with the gross tonnage of such traffic by all routes combined, shall fall below fifty per cent., or rise above fifty-five per cent., of the total gross tonnage of the respective combined classes referred to, then in the former case the government of the prov-

ince, and in the latter case the Transvaal government shall have the right to claim the readjustment of railway rates. Such readjustment of rates shall be made as shall be calculated to restore as nearly as possible the percentage of such traffic within the limits provided for herein. Such readjustment shall take place if necessary every six months and the percentages shall be calculated at the end of June and December in each year. The competitive area shall mean the area between the stations Pretoria, Springs, Germiston, Vereeniging, Klerksdorp, inclusive, and seaborne goods traffic shall exclude traffic for the civil, military, and railway authorities.

24. If shipping freights to or from any South African port on traffic to or from the Transvaal be so altered as to influence the course of oversea trade to or from the competitive area to a material extent, the two governments shall thereupon take such action jointly and in consultation as they may consider most expedient to give effect to the provisions of the last preceding article.

25. If railway rates on traffic from Lourenço Marques to stations in the Transvaal require to be altered either for the purpose of maintaining the percentage of tonnage mentioned in article twenty-three or for any other cause, the alteration shall be arranged by the administration of the C. S. A. R., after consultation with the administration of the C. F. L. M.,¹ and the rates so altered shall be divided between the two administrations in proportion to the division existing before such alteration.

The rates to be charged from Lourenço Marques over any new railway opened for working within the Transvaal after the date of this convention shall be arranged by the administration of the C. S. A. R., after consultation with the administration of the C. F. L. M., and shall, after the deduction of terminals at the amount obtaining for similar classes of traffic to stations on existing lines, be divided between the two administrations according to mileage; provided that the share of such rates falling to the C. F. L. M., in division shall not without the concurrence of that administration, be less than the share received by it in respect of similar traffic to Johannesburg.

The division of railway rates on existing lines between the C. F. L. M. and C. S. A. R. administrations on traffic carried between Transvaal

¹ C. S. A. R. is the abbreviation for Central South African Railways; C. F. L. M. for Caminhos de Ferro de Lourenço Marques.

and C. F. L. M. stations shall, unless otherwise agreed, continue as at present, and any new rates introduced on such lines shall be divided in the same manner; provided that if any alteration of such new rates takes place, the altered rates shall be divided between the two administrations in proportion to the division existing before such alteration.

The railway rates on the several classes of traffic from Lourenço Marques to stations east of Pretoria and to stations between Witbank and Brakpan and to stations east of Springs or the Springs-Breyten line shall not in any case be higher than the rates to Pretoria, Brakpan, and Springs, respectively.

The rates from any other port on oversea traffic to the stations east of Pretoria, Brakpan or Springs, respectively, shall not be lower than the through rates from any such port to Pretoria, Brakpan, or Springs, respectively, *plus* the ordinary local rates for the time being chargeable for the distance between Pretoria, Brakpan, or Springs, respectively, and such stations.

The rates from Lourenço Marques on oversea traffic to the stations west of Klerksdorp, south of Vereeniging and beyond Germiston in the direction of Volksrust respectively shall not be lower than the through rates from Lourenço Marques to Klerksdorp, Vereeniging, or Germiston respectively *plus* the ordinary local rates for the time being chargeable for the distance between Klerksdorp, Vereeniging, or Germiston, respectively, and such stations.

26. For the purpose of better carrying out in detail the provisions of this part of this convention

(a) a joint board shall be constituted consisting of four delegates, two being representatives of the Transvaal government and two of the government of the province of Mozambique. One of the representatives of the government of the province shall be chairman of the board and shall preside at all meetings. Each delegate shall, subject to the approval of his government, have power to appoint one alternate delegate to act in his place while he is absent from any board meeting;

(b) the board shall have its head office at Lourenço Marques where all its meetings shall be held, unless otherwise agreed;

(c) a meeting of the board shall be deemed to be constituted if one delegate representing the Transvaal and one representing the province be present thereat;

(d) no decision or resolution of the board shall be valid unless

it be agreed to by all the delegates present at the meeting. If the delegates do not unanimously agree upon any question submitted to the board the matter shall be referred to the two governments for consideration and mutual decision and pending, or failing, such mutual decision by the two governments, the *status quo ante* the decision or resolution of the board shall be maintained;

(e) the minutes and resolutions of the board shall be reported immediately after their adoption to the Transvaal government and the government of the province and shall not be given effect to for ten days after being so reported, unless the two governments have specially agreed otherwise in respect to any specific questions or resolutions. If neither government notify the board expressing disapproval of such resolutions within such period of ten days, then the same shall be considered as approved and effect shall be given thereto;

(f) both governments shall give the board all such powers, facilities, and assistance, whether by enacting new laws, regulations or otherwise, as may be necessary for the efficient and expeditious carrying out of this part of the convention;

(g) the office and other expenses of the board, but not the remuneration of the individual members, shall be borne by the administrations of the C. F. L. M. and the C. S. A. R., in equal shares;

(h) the board shall be constituted before the first day of July, 1909.

27. With respect to import traffic to the Transvaal no port, municipal, or other charges at the said port shall be increased nor shall railway rates be increased over the C. F. L. M., nor shall any of the existing facilities be withdrawn or lessened by legislation or by any regulations or other means unless the board shall previously have agreed to.

28. Neither administration shall, without agreement with the other, impose railway rates for conveyance of the products of the soil or of the industry of the Transvaal or of the province (as the case may be) so as to defeat the intention of Part 3 of this convention providing for the interchange of products of the soil and of the industry between the Transvaal and the province.

29. When capital expenditure becomes necessary for effecting improvements to the said port or for increasing the facilities in connection with the import and export traffic, the members of the board shall in consultation prepare an estimate of such expenditure, and also a

scheme for raising the capital and executing the improvements. Such capital shall be raised on the most favorable terms possible. Neither of the two governments shall, however, be bound to adopt the recommendations of the board.

30. For the purpose of economy and efficiency, the engines, trains, and running staffs in charge thereof, shall not be restricted to the lines of the administration to which they belong, but may, so far as the two governments mutually agree, be run over the railway lines of the other administration.

31. The administration of the C. S. A. R. shall include any authority in whom the management and control of the railways in the Transvaal are for the time being vested.

PART 3.

Commercial intercourse and customs.

32. The products of the soil or of the industry of the province of Mozambique shall not be liable to the payment of any import, export, or transit duties in the Transvaal and, *vice versa*, the products of the soil or of the industry of the Transvaal shall not be liable to any import, export, or transit duties in the province of Mozambique.

33. Notwithstanding the provisions of the last preceding articles

(a) liquors distilled and fermented liquors made in the province of Mozambique shall be subjected on entering the Transvaal to the highest import duties of liquors imported from oversea, and, *vice versa*, liquors distilled and fermented liquors made in the Transvaal shall be subjected to the highest import duties on liquors imported from oversea on entering the province of Mozambique.

(b) the products of the industry of the Transvaal will only be admitted free of duty into the province of Mozambique and the products of the industry of that province will only be admitted free of duty into the Transvaal, if the elements or chief constituent parts thereof are the products of the soil of the Transvaal or of that province, as the case may be.

For the purpose of this article distilled liquors and fermented liquors shall mean liquors containing more than three per cent. of proof spirit, equivalent to 1.716 degrees centigrade.

34. Subject to the provisions of the last preceding article, products of the soil or of the industry of the province shall, if brought into the

Transvaal, only be liable to the lowest tax, municipal or otherwise, imposed in the Transvaal on any similar article, whether produced in the Transvaal or not, and, *vice versâ*, products of the soil or of the industry of the Transvaal shall, if brought into the province, only be liable to the lowest tax, municipal or otherwise, imposed in the province on similar articles, whether produced in the province or not.

35. Merchandize of any origin or nationality imported through Lourenço Marques and bound for the Transvaal shall be entirely exempt from any charges whatsoever, excepting port and warehousing charges and the charges now known as industrial contribution. This article shall, however, be subject to the provisions of article twenty-seven of this convention.

36. Goods ex-bond and ex-open stocks within the Lourenço Marques district shall be admitted into the Transvaal upon payment of the duties in force in the Transvaal at the time of entry thereto, such duties being estimated on the oversea value of goods in the case of goods under the *ad valorem* classes.

For the purpose of this article, importers will be required, on arrival of the goods at Lourenço Marques, to pay the Transvaal duties to the Transvaal customs, or to satisfy such customs as to the due payment of those duties. Importers will be required to produce, when necessary, proofs to the satisfaction of the Transvaal customs as to the values of the goods, and to furnish any further information which may be required for the protection of the Transvaal revenue. In the case of goods on which Transvaal customs have been paid not entering the Transvaal, the amount so paid will be refunded by the Transvaal customs to the importers.

37. With respect to goods imported into the Transvaal and exported therefrom through the port of Lourenço Marques, no higher export duties shall be imposed, either in the Transvaal or in Lourenço Marques, than are levied on similar goods exported through the ports of the Cape Colony and Natal.

38. No higher duties or other taxes shall be levied in the Transvaal on goods imported thereto through the port of Lourenço Marques than are levied on similar goods imported into the Transvaal through the ports of the Cape Colony and Natal.

39. It shall be lawful to re-export from the bonded warehouses in Lourenço Marques and merchandise imported thereto, and the said merchandize shall be exempt from any export or reexportation duty, and

shall only be liable to the payment of warehouse charges and fees of port dues. The provisions of this article shall apply only to such merchandize as the Portuguese customs authorities are satisfied has been *bonâ fide* ordered for the Transvaal.

PART 4.

Miscellaneous.

40. If, on the establishment of a union of the South African colonies, the Transvaal becomes a party to such union, the government of the union shall take the place of the Transvaal government for all purposes of this convention, but in such event the provisions of this convention shall apply only to the areas originally contemplated.

41. This convention shall continue for ten years from the date hereof, and shall thereupon cease if either government has given one year's notice to the other of its intention to terminate it. If no such notice has been given, the convention shall continue from year to year until either government shall have given one year's notice to the other of its intention to terminate it.

42. This convention shall be executed both in the Portuguese language and in the English language.

Thus done at Pretoria under my hand under the public seal of the Transvaal, on behalf of the government of the Transvaal, this first day of April, 1909.

SELBORNE, (L. S.)
Governor of the Transvaal.

[The Portuguese version is signed by THOMAZ ANTONIO GARCIA ROSADO.]

CONSULAR CONVENTION BETWEEN JAPAN AND THE NETHERLANDS CONCERNING THE COLONIES AND POSSESSIONS OF THE NETHERLANDS.

Signed April 27, 1908.

His majesty the Emperor of Japan and her majesty the Queen of the Netherlands, deeming it desirable that, independently of the treaty of commerce and navigation between Japan and the Netherlands, a special convention should determine the rights, duties, powers, privileges, exemptions and immunities of the Japanese consular officers in the posses-